



# FAIRFAX COUNTY

# STAFF REPORT

V I R G I N I A

## PROPOSED ZONING ORDINANCE AMENDMENT

**Residential Studios**

### PUBLIC HEARING DATES

**Planning Commission**

November 20, 2013 at 8:15 p.m.

**Board of Supervisors**

TBD

**PREPARED BY  
ZONING ADMINISTRATION DIVISION  
DEPARTMENT OF PLANNING AND ZONING  
703-324-1314**

Revised August 27, 2013

DP



Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

## **STAFF COMMENT**

The proposed amendment has been on the Priority 1 Zoning Ordinance Amendment Work Program for a number of years and is in response to the Board of Supervisors' (Board) stated goal to continue to work toward the development of housing opportunities for all residents. The amendment will establish a new use of Residential Studio units that will provide small, efficiency style rental apartments predominantly for persons with an income of not more than 60% of the Area Median Income (AMI). The use will be allowed by special exception in most residential, commercial, and industrial districts and can be approved as part of a rezoning or with a special exception and/or development plan amendment in all planned development districts.

At the Board's July 30, 2013 meeting, the amendment was authorized for public hearings with the provision that the Planning Commission be directed to conduct additional outreach in the form of work sessions or other public engagement opportunities, with emphasis on ensuring that the regulations will maximize the compatibility and harmony of the use within each zoning district. In addition, the Board requested that the proposed amendment include an option utilizing Floor Area Ratio (FAR) and to address the attachment of a residential studio development to a single family dwelling. This amendment has been revised to reflect these changes.

### **Current Zoning Ordinance Provisions**

The current Zoning Ordinance and Board policies offer several opportunities for the development of below market rate priced housing at levels up to 120% of AMI. The Affordable Dwelling Unit (ADUs) Program set forth in the Zoning Ordinance requires a percentage of units to be designated as available for households earning a maximum of 70% of AMI, with rental developments offering units at rents commensurate with income levels of 50% for one third of the ADUs and 65% AMI for two thirds of the ADUs. The Board's Workforce Dwelling Unit (WDUs) Policy provides for the voluntary provision of more affordably priced housing that serves multiple income tiers from 80% to 120% of AMI, or a range of 60% to 120% in the Tysons Corner Area. WDUs are typically established in developments of multiple family dwelling units of five stories or more in height. For the most part, developments containing WDUs will comprise not more than 12% of the total unit count (except in Tysons where the WDU count is anticipated to be 20%) and for developments providing ADUs in a typical mid-rise multiple family development, not more than 6.25% is typical. The current provisions of the Zoning Ordinance and Board policies do not offer a housing product that is specifically intended to primarily serve single occupant households whose income is 60% of AMI or less. For a frame of reference, at 60% AMI, the income for a single person household is approximately \$45,000 per year. The proposed amendment will establish the use of Residential Studio units to fill that gap.

## **Background**

The genesis of this amendment is multifaceted. The need for housing at all income levels is apparent in Fairfax County, as it is throughout the country. The fast-paced growth in housing prices that predominated in past years put much of the County's housing stock out of reach for many low and moderate income residents. Home builders were marketing to higher end markets and very little housing was produced by developers to serve households with low income. Average home sizes increased substantially throughout this period, further exaggerating the gap in affordability for low and moderate wage earners.

In February 2003, the Board created the Single Room Occupancy (SRO) Task Force to study SRO housing models. In the spring of 2005, establishment of an SRO unit type was placed on the Zoning Ordinance Amendment Work Program as a Priority 2 item, pending completion of the SRO Task Force study. In July 2005, the SRO Task Force published its final report, entitled "An Affordable Housing Solution for Low Income Single Residents," setting forth the need for such units, models for SROs, and recommendations for moving toward the development of such uses. In the spring of 2006, the Board moved the SRO amendment to Priority 1 on the Zoning Ordinance Amendment Work Program.

During this same time period, several other important efforts were underway to address the issues related to the availability of affordable housing. Those efforts included the development of a workforce housing policy, the Board's initiative to end homelessness in a ten year period and the amendment to the independent living facility use to provide for a low income tenant subset. Regarding workforce housing, through the course of review of the Comprehensive Plan WDU Policy and the companion Zoning Ordinance amendment (both of which were ultimately adopted in 2007), the High-Rise Affordability Panel considered the issue of providing housing for an income population making not more than 60% of AMI. A study entitled the "Need for Affordable/Workforce Housing in Fairfax County" was conducted by the Center for Regional Analysis at George Mason University during this time. The results of this study suggests that the projected need for housing units from the years 2005 to 2025, for both rental and for-sale units in the 50% AMI or less is 30,000 units. Upon development of the WDU Program, the High-Rise Affordability Panel concluded that the inclusion of an income tier for the less than 60% AMI in the WDU Program necessitated an extraordinarily large density bonus in high-rise buildings in order to mitigate the provision of such lower income units. As a result, the WDU Policy Guidelines ultimately adopted by the Board included only three tiers of income (up to 80% AMI, up to 100% AMI and up to 120% AMI). The Board did, however, subsequently adopt an amendment to the independent living facility special exception use to allow for additional density bonus for facilities which serve households with an income at or below the 50% AMI level for not less than 70% of the units and at or below the 70% AMI level for not more than 30% of the units. While that amendment addressed the needs of those households who meet the age and/or disability requirements of the independent living facility use, it did not address the needs of the general population who require lower cost housing options.

The inability to accommodate low income rental units as an incentivized voluntary commitment necessitated the establishment of a specific use that appropriately addresses the use characteristics of this kind of housing. The creation of residential studios is intended to facilitate a housing option primarily for an individual earning not more than 60% of AMI. During the

course of development of this proposed use, staff has worked with representatives from many agencies who represent persons with disabilities/handicaps who have the skills necessary to live independently, work in jobs that pay around minimum wage (\$15,080/year or approximately 20% of AMI for a one person household), which typically prevents them from finding a housing option in the current rental market, even with available subsidies. A residential studio development could help provide such an option.

Other factors or initiatives that contribute to the need for housing for low income tenants include:

- *The Blueprint for Success: Strategic Directions for the Plan to Prevent and End Homelessness in the Fairfax-Falls Church Community*, endorsed by the Board in February 2007, and the subsequent *Implementation Plan to Prevent and End Homelessness in the Fairfax-Falls Church Community*, approved by the Board in March 2008
- Cultural changes, including delaying or refraining from marriage leading to more single person households, an increase in elderly adults residing independently after the loss of a spouse, etc.
- The progression of urbanization in the County, particularly in the areas in and around Tysons Corner and other transit-oriented developments, that have led to an influx of single-person households of younger adults.

Because of the multitude of factors impacting household size, actual housing trends are challenging to accurately predict going forward; however, there is clear indication that there has been and likely will continue to be an increase in single person households in Fairfax County. Staff notes that the proposed amendment does not specifically state an occupancy limit of one person per studio unit; as such occupancy limits are governed by the Virginia Uniform Statewide Building Code (VUSBC). Under the VUSBC, a studio unit housing one or two people must be at least 220 square feet plus a kitchen and bathroom. A studio unit housing three people must be at least 320 square feet plus a kitchen and bathroom and no studio unit can be occupied by more than three people, regardless of size. However, given the maximum size of the studio unit (500 square feet) and the availability of only one parking space per unit, single person households will likely be more inclined to occupy these units.

With regard to the provision of efficiency units, staff notes that neither the Department of Public Works and Environmental Services (DPWES) or the Department of Housing and Community Development (HCD) track site development plans by the size/bedroom count of individual dwelling units, so staff is unable to provide an exact count of the number of efficiency units available. Based on 2012 census data, approximately 28% of all housing units were multiple family dwellings; however, by 2040 it is estimated that 39% of all dwelling units will be multiple family units. Anecdotally, staff believes there is increasing interest in efficiency units in the market. Nationwide, for urban and urbanizing areas there has been a housing trend toward so called “micro units” that are oftentimes between 300 and 400 square feet in size. These are being introduced in areas like New York, Boston and Seattle and are entering the market as a market rate product, with some areas providing incentives for establishing some units at below market rate rents/prices.

All of this contributes to the need for one or two person occupancy dwelling units at every income level, but it is particularly relevant at the lower end of the income spectrum. The intent of the proposed Zoning Ordinance Amendment is to create a new housing product that is specifically designed to primarily serve a single-occupant population with a household income of not more than 60% of AMI. Staff notes that this kind of housing product has been successfully developed in a number of jurisdictions in the southern part of the state, including Charlottesville, Richmond, Virginia Beach and other Tidewater areas.

The proposed amendment was presented to the Board's Housing Committee in February and May of this year for review and comment. At both meetings members of the Committee expressed concern with the potential for conversion of an existing single family dwelling to a Residential Studio Development. Staff noted that while such a scenario was possible, such a conversion would be subject to the building code provisions for a multiple family dwelling. In addition, the proposed additional standards for residential studios requires the development to be located on a collector street or major thoroughfare and that the use be designed to be harmonious with the development on neighboring properties, among other standards. This will enable the Board to evaluate the appropriateness of such a request on a case by case basis. However, in response to this concern, staff has prepared both options for the Board's consideration; one that includes the ability to convert an SFD and one that specifically precludes such conversion. This provides the Board with the flexibility to exclude the conversion of a SFD from the proposed ordinance. More detail on this issue is set forth in the discussion of the proposed additional standards.

Staff has discussed the proposal in a number of meetings of various County groups interested in housing advocacy. Additionally, staff has reached out to interested parties in the form of a solicitation for comments on the draft amendment and received comments from more than fifty individuals or groups, including The Fairfax County Redevelopment and Housing Authority/Department of Housing and Community Development, Habitat for Humanity, Virginia Supportive Housing, Fairfax County Human Services Council, Fairfax County Alliance for Human Services, McLean Citizens Association, Accotink Unitarian Universalist Church, Fairfax-Falls Church Community Services Board, Communities of Faith United for Housing, and others. A detailed summary of the input received from this request for comments is set forth in Attachment 1 to this Staff Report. In general, the comments were predominantly supportive; however, the following concerns were raised: the proposed parking rate is excessive when housing a population who does not drive; parking rate is too low and will create parking issues; income limits are too high to accommodate the very low income population; use is not appropriate in the more rural areas; and a maximum density should be implemented, among others. Staff has taken these comments into consideration and believes the amendment, to the greatest extent possible, gives the Board flexibility when imposing the additional standards.

### **Proposed Amendment**

The proposed amendment will define residential studios as a multiple family residential building having between 3 and 75 efficiency units (zero bedrooms) that are limited to rental occupancy only. Tenants for not less than 80% of the units must have an income of not more than 60% of AMI and the remaining units of not more than 20% can be above 60% of AMI. The 3 unit

minimum is consistent with the definition of a multiple family dwelling unit development and the maximum of 75 units is based on input from providers of housing to low income tenants. At that level of development, providers can efficiently offer services to tenants with special needs and staff believes that this limit can help ensure a residential studio development is compatible in terms of scale.

Residential studios are proposed as a Category 3 (Quasi-Public Uses) special exception use in most residential, commercial, industrial and planned development districts. In the R-E through R-30 Districts, the Zoning Ordinance currently provides for similar residential uses by special exception approval, such as independent living facilities, congregate care facilities, medical care facilities (assisted living/nursing home), and housing associated with a college, university or private school. Other uses of a non-residential nature that are also allowed by a Category 3 special exception in these residential districts include schools, cultural centers/museums, private clubs, athletic fields, and places of worship, among others. As is the case with the current special exception uses in residential districts, not every lot in every district is going to be appropriate for the development of residential studios. It should be emphasized that a residential studio development would not be permitted on a lot with a single family dwelling, pursuant to the current provisions in Sect. 2-501 of the Zoning Ordinance which preclude a dwelling unit from being located on a lot with any other principal building.

For the commercial and industrial districts, residential studios would be added as a Category 3 special exception use in the C-1 through C-9 Commercial District and the I-1 through I-4 Industrial Districts. While uses of a residential nature aren't typically permitted in commercial and industrial districts, several of the office commercial districts do currently permit independent living facilities, congregate care facilities, medical care facilities (assisted living/nursing home), and housing associated with a college, university or private school. Most of the retail commercial districts currently allow medical care facilities (assisted living/nursing home), and housing associated with a college, university or private school. Additionally, in many industrial districts, medical care facilities (assisted living/nursing home) and housing associated with a college, university or private school are also currently allowed by special exception. Staff believes that, in addition to new construction, there is opportunity for the redevelopment of older hotel/motel uses, "big box" retail space, and other non-residential buildings into a residential studio building. Staff believes that the co-location of residential studios with business uses (such as office, retail, etc.) may offer on-site employment opportunities to tenants who may not have access to a motor vehicle or other means of transportation. Again, not every commercial or industrial lot is going to be compatible for the development of residential studios.

In all planned development districts, the residential studio use is proposed as a principal use in the PRC and PTC Districts and as a secondary use in all other districts. Residential studios can be approved as part of a rezoning (or as an amendment to a previously approved rezoning/development plan) or by special exception if not specifically shown on an approved development plan. In all planned development districts, residential studios could be approved as the principal use on the lot or they could be co-located with any use other than a single family dwelling.

With regard to density/intensity of the use, residential studios are limited to between 3 and 75

multiple family dwelling units on a lot in any zoning district. The amendment proposes an additional standard that allows the Board to consider the amount of floor area that would otherwise be permitted if the development were subject to the maximum floor area ratio (FAR) of the underlying zoning district. For example, in an R-1 District, the FAR is 0.15, which equates to 6,534 square feet of floor area per acre. With a 400 square foot unit plus 30% additional for all common spaces (hallways, laundry room, shared communal space, etc.), such development could achieve 12.56 dwelling units per acre. The Board could limit the residential studio development to the number of units that could be accommodated within that square footage, rather than allow the maximum of 75 units. Additionally, in all cases in all districts, the Board could further limit the number of units to a number below either the 75 unit limit or the maximum FAR limit, based on factors related to compatibility and the appropriateness of the use at the proposed location.

In order to provide for an incentive to help offset the cost of establishing this affordable housing product, staff is proposing that the density or intensity attributed to the residential studio development would not count against the maximum permitted for other uses on the lot. Essentially, the use is achieved as bonus density. In residential districts, the development of residential studio units could be a stand-alone use or could be co-located with other uses permitted in the district. In commercial and industrial districts, again, the residential studios could be a stand-alone use on the lot subject to the 75 unit maximum or it can be co-located with any permitted commercial or industrial use. When co-located with another use, the floor area attributable to the residential studio development will not take away from the floor area that can be utilized for any use permitted in the respective zoning district. By way of example, if a commercial lot allows 40,000 square feet of commercial uses, a developer could construct that 40,000 square feet and add a residential studio component of between 3 and 75 units (subject to Board approval) and provided there is adequate space on the lot to fit all the uses and the required parking, open space, minimum yards, etc. Staff believes that excluding the density/intensity associated with residential studios from the overall development density/intensity permitted on a lot, will serve as an incentive that can help overcome the strict limits on rental prices. As noted previously, the amendment is proposed with an additional standard that allows the Board to further limit the development to the floor area that would be otherwise permitted by the respective zoning districts or to some lesser number of units, as the Board deems appropriate.

The amendment proposes a number of additional standards intended to facilitate the compatibility of a proposed residential studio development within each respective zoning district, with other uses on the development site, as well as with neighboring lots and uses. Further, it is noted that Sect. 9-003 of the Zoning Ordinance provides the Board with the authority to modify the standards for a special exception where deemed necessary as long as the resultant development will not adversely affect the use or development of adjacent properties. The proposed standards and a description of the intent of each standard are outlined below, in the same paragraph format as contained in the proposed text amendment:

***A. Each residential studio dwelling unit shall be of efficiency design (zero bedrooms) and shall comprise not more than 500 square feet of gross floor area, inclusive of an in-unit bathroom and kitchen.***

As a multiple family dwelling unit, all residential studios must be independent living units, thus requiring a bathroom and kitchen in each unit. The intent of requiring the units to be of limited size (500 square feet maximum and zero bedrooms) is the natural affordability that comes with smaller units and to maximize low-income housing opportunities by providing for a unit that would be appropriately sized for a small household, thus avoiding the situation of being unnecessarily “over housed” in a larger dwelling unit.

***B. Residential studios shall only be established on a parcel of land fronting on, and with direct access to a collector street or major thoroughfare. Proposed locations for a residential studio development shall consider the transportation needs of the intended tenants as an essential element of the application, to include information regarding proximity to transit (rail and/or bus) or the provision of transportation services provided by the residential studio development, where appropriate.***

As with other residentially-oriented quasi-public uses permitted by special exception (such as independent living facilities, assisted living facilities, nursing homes, etc.) this standard requires that the residential studio development be served by a collector street or major thoroughfare to preclude location on a lot served by a neighborhood/subdivision street or in other inappropriate locations. One goal is to ensure that there is the opportunity for mass transit (rail or bus) in proximity to the residential studio use and that the location is selected based on the availability of an appropriate road network that can accommodate any anticipated trip generation from the residential studio development. With regard to the transportation needs of the intended occupants, staff is aware that there may be developments that target occupancy by persons who have no opportunity to drive a motor vehicle, whether because of a disability/handicap, advanced age, and/or level of income. As such, and consistent with the current provisions for independent living facilities that serve an elderly or disabled/handicapped population, the additional standard provides that any specific transportation needs will be addressed in the application. As has been the case with some independent living facilities, the Board could impose a condition requiring that periodic van/car service is made available to the tenants for a population that does not drive and/or cannot independently utilize public transportation.

***C. The number of residential studio units permitted on a lot shall be as established by the Board upon review of a specific development proposal, but in no event shall such development exceed seventy five (75) units. The Board may limit the maximum number of units to that which could be accommodated by the maximum floor area ratio specified in the underlying zoning district. In those districts that include multiple options for FAR, residential studios shall be evaluated in comparison to the lowest specified FAR for that district. All residential studio units and their accessory uses, whether stand-alone or when co-located on a lot or in a building with any other use, shall not be subject to or included in the calculation of the maximum density (dwelling units or persons per acre) or intensity (FAR) provisions specified for the zoning district in which located.***

Staff believes that the 75 unit maximum will generally satisfy a threshold minimum number of units that would be needed for a development to effectively and efficiently deliver any



social, medical, training or other services to tenants. This is based on the business model used by the Virginia Supportive Housing organization, who has built a number of developments to provide permanent housing to a formerly homeless population in jurisdictions in southern Virginia. It will also help to ensure that a site is not overburdened with the multiple family dwelling unit development. However, there could be any number of reasons that would make a 75 unit development too intense for the proposed development site, such as service levels of nearby roadways, environmental impacts of the development, character of the surrounding developments, and access to public transportation/shopping/ Therefore, staff is proposing an additional standard that allows the Board to consider the base level FAR of the underlying zoning district as a measure of compatibility when evaluating a special exception application. Additionally, other factors affecting compatibility and appropriateness of the use will also allow the Board to approve a unit count that is less than the 75 unit maximum and less than that which could be provided in accordance with the FAR of the development site.

The amendment proposes to exclude the density/intensity associated with the residential studio use from the maximum limits of the district in which located. As set forth in the definition and the additional standards for residential studios, the amendment includes a maximum unit size, a maximum number of units, minimum yard requirements, minimum open space and other controls, such that the impacts of the bulk of the buildings and intensity of the use can be effectively managed on a case-by-case basis. In the Board's review of an application, consideration can be given to the FAR limit that would otherwise be permitted in the underlying zoning district when evaluating the appropriateness of a proposal; however, the Board will not be bound by those limits. As proposed, the building area devoted to the residential studios is essentially bonus density and staff believes that this bonus can serve as an incentive to help mitigate the rental price controls applicable to the majority of the units.

***D. Accessory uses that are proposed as part of the residential studio development shall be identified in the special exception application in terms of the use, location, anticipated frequency of utilization, and gross floor area. The Board shall find that such use(s) are clearly subordinate in purpose, area and extent and are designed to be used solely by the tenants of the residential studios to contribute to their comfort, convenience and necessity.***

As with many multiple family dwelling unit developments, a developer may want to incorporate a fitness room, laundry facilities, community space, office space for visiting service providers, or other accessory uses that are designed to be used solely by the tenants. This standard requires that those uses and spaces be identified in the application so that the Board can evaluate the impacts of the proposal as a whole. As with all accessory uses, the scale must be such that combination of all such uses is clearly subordinate to the primary use of multiple family dwellings and that they are directly related to the comfort, convenience and needs of the tenants.

***E. Residential studios shall be designed so as to be compatible with any existing development on the lot in terms of intensity, uses and scale. Additionally, the development shall be harmonious with the development on neighboring properties in terms of character, building size, height, intensity and use. Factors to be considered when evaluating the appropriateness***

*of a proposed residential studio use on a lot and determining the maximum number of units that should be permitted shall include, but not be limited to:*

- (1) Predominant use of surrounding and nearby properties;*
- (2) Proximity to other multiple family dwelling unit developments and/or other residential studio developments;*
- (3) Predominant architectural style of the surrounding and nearby properties;*
- (4) Use and intensity/density recommendations of the adopted comprehensive plan;*
- (5) Availability of pedestrian access to transportation and shopping opportunities; and*
- (6) Vehicle trip generation rate for the residential studio development as compared to the vehicle trip generation rate for uses on adjacent lots.*

As with all special exception uses, compatibility is the primary concern when evaluating a proposal. Staff is proposing to allow residential studios in most residential, commercial, industrial and planned development districts. Given the broad range of districts and the variety of uses that are permitted in each of these districts, a residential studio development may be incompatible in some locations. For example, for a lot zoned R-2 located in the middle of a subdivision of one half acre lots, developed with single family detached dwelling units, and served by a local neighborhood street, it is unlikely that an applicant could ever demonstrate the compatibility of a residential studio development that would be harmonious with the character of the established neighborhood. On the other hand, for an R-2 lot located in an area that is surrounded by properties that have been rezoned to a higher density district or which is a transitional lot between residential and commercial uses, it could be possible that a residential studio development provides the right transition between the varying districts/uses. Similarly, a residential studio development may be appropriate on an industrial lot zoned I-4 that is developed with an office building, but may be incompatible with a lot zoned I-4 that is developed with or surrounded by lots developed with a vehicle storage lot or a motor freight terminal.

In addition to the standards that staff is proposing for a residential studio development, the general standards for all Category 3 special exceptions are also applicable to the residential studio special exception use. Those provisions state, among other things, that the use at the specified location shall be in harmony with the adopted comprehensive plan; shall be in harmony with the general purpose and intent of the applicable zoning district regulations; shall be harmonious with and not adversely affect the use or development of neighboring properties; will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof; and that the proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing or anticipated traffic in the neighborhood.

The enumerated standards are intended to give the applicant and the Board guidance when it comes to factors impacting compatibility. Staff believes that the combination of the proposed additional standards for residential studios and the existing general standards for special exceptions will help ensure that any proposal can be appropriately evaluated for compatibility.

***F. Option 1*** *In the event of a conversion of any building and/or the attachment or addition of a residential studio development to an existing structure, all Building Code requirements pertaining to multiple family dwelling unit structures shall apply. A residential studio development shall not be co-located on a lot with a single family dwelling. No residential studio development shall be permitted on a lot that is served by an on-site individual sewage disposal system or private water supply system.*

***F. Option 2*** *The conversion of a single family dwelling to a residential studio shall not be permitted and no residential studio development shall be permitted on a lot that is served by an on-site individual sewage disposal system or private water supply system. The attachment of a residential studio development to a single family dwelling shall not be permitted. A residential studio development shall not be co-located on a lot with a single family dwelling. In the event of a conversion of any non-single family building and/or the attachment or addition of a residential studio development to an existing non-single family structure, all Building Code requirements pertaining to multiple family dwelling unit structures shall apply.*

Based on the concerns expressed by the Board regarding the ability to convert a single family dwelling to a residential studio development, staff is presenting two options for the Board's consideration. Option 1 would allow the possibility of converting a single family dwelling structure into a multiple family residential studio development and Option 2 expressly sets out that the conversion of a single family dwelling to a residential studio development is not permitted, nor would attaching a residential studio to a single family dwelling be permitted. Both options expressly preclude the development of residential studios on a lot that is served by an on-site individual sewage disposal system or private water supply system, which staff believes is appropriate to limit the development of residential studios in the less developed areas of the county even if the underlying zoning district would otherwise permit such use.

With regard to the reference to the Building Code standards for multiple family dwellings, staff believes that this provision is necessary to establish that a residential studio development is to be treated the same as any other multiple family dwelling unit building. Any new construction or building conversion/addition will be subject to the Building Code standards applicable to multiple family buildings, including firewalls between units, sprinklers/smoke detectors, Americans With Disabilities Act (ADA) compliance, common interior access to units, etc. These requirements are not the same as what would be required for the legal establishment of an accessory dwelling unit in a single family home, which requires special permit approval and is subject to the building code standards for single family dwellings. Residential studios are simply a subset of the multiple family dwelling unit building type and all Building Code requirements applicable to multiple family dwellings are similarly applicable to residential studios.

***G.*** *The minimum front, side and rear yard requirements, minimum open space, and maximum building height limits shall be as set forth in the respective zoning district, except as may be modified by the Board to ensure neighborhood compatibility. In the R-E through R-8 Districts, the yards and building height shall be as specified for single family dwellings and in the R-12 through R-30 Districts, the yards and buildings heights shall be as specified for*

***multiple family dwellings, unless modified by the Board.***

To help ensure neighborhood compatibility, staff is proposing that the minimum yard requirements, minimum open space requirements and maximum building height limits be consistent with the underlying zoning district regulations. For the R-E through R-8 Districts, which do not typically permit multiple family dwelling units, other than independent living facilities, school-associated residence halls/dormitories, or in affordable dwelling unit developments in some cases, staff proposes that the district regulations that are applicable to single family dwellings are implemented for residential studios to help ensure compatibility with the types of buildings that would most frequently be found in those districts. For the multiple family districts (R-12 through R-30), staff proposes that the district regulations applicable to multiple family structures be implemented. The Board could impose greater bulk or setback standards based on a case by case review of a development proposal.

***H. For the purposes of Article 10, an individual residential studio unit shall be deemed a multiple family dwelling unit; however, no additional employee associated with a home occupation shall be allowed and the tenant shall not operate a home child care facility or a school of special education in the residential studio.***

In any residential dwelling unit, as set forth in Sect 10-302, certain home-based businesses are generally permitted pursuant to Article 10 subject to use limitations. One such use limitation includes an allowance for a non-resident employee at the home-based business. Additionally, the Zoning Ordinance allows as home occupation, a school of special education for the teaching of music lessons, tutoring, etc. and the operation of a home child care facility for a limited number of children. However, in the case of a residential studio unit, staff believes the relatively small size of the dwelling, the requirement that the unit has to be an efficiency which is basically just one room, as well as the requirement for only one parking space per unit makes the allowance for employees or students/children inappropriate. Nothing herein will prevent a tenant from conducting other permitted home occupations, which do not require an additional employee and which do not involve having students or day care customers coming to the unit.

***I. Notwithstanding the provisions of Article 11, the minimum off-street parking requirement shall be based on one (1) space per residential studio unit, plus such spaces as are necessary for any accessory uses, as determined by the Board. No additional fees may be charged to a tenant for the parking of one (1) vehicle per residential studio unit. In the event that an applicant can demonstrate that fewer parking spaces than those required above will adequately serve the residential studio development, the Board, in its review may modify this parking requirement, based on the specific characteristics of the use and its location in proximity to transit opportunities or alternate parking facilities.***

Given the relatively small size of the units and the fact that all units must be designed as efficiency units, staff is proposing a parking rate of one space per unit, plus additional spaces as may be needed for any accessory uses. Staff notes that this parking rate of one space per efficiency unit is consistent with the approved parking rate in the Tysons Corner area and it is supported by studies commissioned by the Fairfax County Department of Transportation

(FCDOT), particularly in areas supported by mass transit. For any development proposal that is designed to serve a population that will not have the ability to drive, the Board can reduce the parking rate to a lesser amount to address the actual parking demand of the use. Similarly, the Board can impose a condition that would require additional parking should the specific development proposal warrant such additional spaces.

***J. In accordance with Article 12, signs for a residential studio development shall be as provided for multiple family residential developments.***

AND

***K. For the purposes of Article 13, residential studios located on a lot zoned for or developed with a non-residential principal use, landscaping and screening shall be based upon the predominant non-residential use. For residential studios located on a lot zoned for or developed with a residential principal use, such use shall be deemed a multiple family dwelling unit development for the purposes of Article 13.***

With regard to applying the provisions of Article 12, Signs, and Article 13, Transitional Screening and Barrier Requirements, the standard establishes that a residential studio building is a multiple family building for signage, and with regard to landscaping and screening, if a residential studio building is established in conjunction with a non-residential principal use the screening and barrier requirements applicable to such non-residential use shall apply to the whole building/development.

***L. All initial lease terms shall be for a period of not less than six (6) months and not more than one (1) year. Renewal terms may be on a month-to-month or other term basis, but shall not be longer than one (1) year for each renewal period.***

Residential studios are intended to provide non-transient housing primarily to persons with an income of less than 60% of AMI. As such, staff is proposing a minimum initial lease term of between 6 months and 12 months. Renewal lease terms can be for any amount up to one year. Staff believes this provision will ensure that the residential studio development provides the opportunity for permanent housing for low income tenants and that income can be monitored on at least an annual basis to ensure compliance with the stated income limits.

***M. There shall be convenient laundry facilities provided either within the individual units or in a separate room within the building housing the residential studios and shall be provided at a rate of not less than one (1) washer and one (1) dryer for each ten (10) residential studios, or part thereof.***

Staff is proposing that washer/dryer facilities be provided at a rate of 1 per 10 studio units. Comments received during the solicitation period have indicated a desire for both more facilities (1 per 5 units) and fewer facilities (1 per 20 units.) An internet search of laundry facility rates indicate that in urban areas, it is common to find no communal laundry facilities in buildings and those that do provide machines did so at rates ranging from about 1 machine per 15 units to 1 machine for 140 units. However, it is unclear if these units provided in-unit

laundry facilities. Staff continues to believe that the proposed rate of 1 washer/dryer per 10 units is a reasonable number and notes that this provision may be modified by the Board based on a specific request when it can be demonstrated that an alternate rate will adequately serve the tenants.

***N. All residential studio developments shall provide for a resident manager or twenty-four (24) hour on-site manager on the property or, alternatively, the Board may approve a property management plan that demonstrates sufficient off-site management of the development. The owner or manager shall monitor the income level of tenants at the time of initiation and renewal of any lease term. The results of such monitoring shall be provided to the Zoning Administrator, or designee, on an annual basis to assure on-going compliance with the tenancy and income limits, as defined. Such report shall include the unit number, date of lease renewal, term of lease renewal and tenant income. Each residential studio development may have not more than one (1) unit designated for use by a resident manager and such tenant shall not be subject to the income limits specified for this use. Subject only to modification or exception necessary for compliance with a federal or state affordable housing program, should a tenant become over-qualified with regard to income, such tenant shall vacate the residential studio at the end of the lease term in effect at the time of such over-qualification or within nine (9) months of such over-qualification, whichever time period is longer.***

The proposed amendment will establish that the operator of a residential studio development will provide on-site management or will demonstrate that the building and tenancy can be adequately managed by an off-site program. Effective management of any rental property is paramount to the success of a development and offers the tenants the security of knowing that building concerns will be addressed by the appropriate entity. Additionally, because these units impose income restrictions, will have occupancy limits by virtue of their limited size, may be co-located with another principal use and may require parking management, staff believes that review of a detailed management plan is necessary as part of the special exception process. Furthermore, in order to ensure that a tenant remains qualified in terms of income, the property manager/owner is responsible for monitoring the income level at the time of the initial lease and subsequent renewals to make sure that the occupants of the building are those for whom the residential studio use is intended.

For an occupant who becomes overqualified with regard to income (over 60% AMI), staff notes that the development is permitted to include up to 20% of the units at rents higher than that which is permitted at the 60% level. It is permissible for a development to allow an overqualified tenant to remain in place and to re-designate an available market rate unit as a 60% AMI unit. In this case, the tenant does not have to be displaced. For any tenant who becomes overqualified and no additional unit is available after 9 months or the end of their lease term (whichever is longer), that tenant will be required to vacate the unit to make room for a tenant who is income qualified. Staff notes that this provision can be modified in those cases where a federal or state program provides for different over-qualification regulations.

***O. Prior to the issuance of the first Residential Use Permit for any residential studio unit within the development, the owner shall record a notice in the land records of Fairfax County,***

***on a form provided by or approved by the Fairfax County Department of Housing and Community Development, to address, at a minimum, the income limitations, rental price restrictions, the perpetuity of such controls and any other relevant limits that are imposed by the Board. Additionally, prior to the issuance of the first Residential Use Permit, the owner/manager of the residential studio development shall submit to the Department of Housing and Community Development a rent schedule that identifies the current Area Median Income (AMI) for the Washington Metropolitan Statistical Area (WMSA) as specified by Housing and Urban Development (HUD) and the unit breakdown of rent tiers in accordance with the limits set forth in the definition of residential studio. For each subsequent year, upon release of an updated AMI for the WMSA by HUD, the owner/manager shall submit an amended rent schedule to reflect the changes.***

Lastly, staff is proposing that all residential studio developments record a notice in the land records indicating that the development is subject to the Board's approval of the special exception/rezoning and any conditions associated therewith. This provision is similar to the requirement for the recordation of a document associated with independent living facilities for low income tenants. The intent is to put prospective purchasers, lenders, the public, etc. on notice that the development is subject to additional requirements that may be relevant to that person's interest in the project.

## **Conclusion**

Staff believes the proposed amendment will establish the opportunity to develop a housing product that is currently not provided for in the Zoning Ordinance or by Board policy. Additionally, the housing product proposed will help the Board achieve the goals set forth in the SRO Task Force Final Report, the 50+ Action Plan, the Ten-Year Plan to Prevent and End Homelessness, the Workforce Housing policy for incomes of less than 60% of AMI, the Forging a Path Home report and other initiatives that promote housing affordability. The proposed amendment will permit the development of between 3 and 75 efficiency dwelling units in a multiple family building by special exception in most residential, commercial and industrial districts or as part of a rezoning or with special exception and/or development plan amendment in all planned development districts. The amendment will provide for a housing product that will help satisfy the need for below-market rate rental housing primarily for a single person household. Therefore, staff recommends approval of the proposed amendment, with Option 1 that permits the ability to convert a single family dwelling structure into a multiple family residential studio development, with an effective date of 12:01 a.m. on the day following adoption.

## PROPOSED AMENDMENT

*This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of July 30, 2013 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.*

1 Amend Article 20, Ordinance Structure, Interpretations and Definitions, by amending Part  
2 3, Definitions, to add the following definition of RESIDENTIAL STUDIOS in its proper  
3 alphabetical order, as follows:

4  
5 RESIDENTIAL STUDIOS: A multiple family residential building(s) or portion(s) of a  
6 building(s), comprised of not less than three (3) nor more than seventy-five (75) efficiency (zero  
7 bedroom) dwelling units on a lot, subject to further limitations imposed by the Board, and which  
8 may include permitted accessory uses and structures that are designed to be used solely by the  
9 tenants of such residential studio units. Occupancy shall be limited to rental tenants only. Not  
10 less than eighty (80) percent of the total number of units shall be subject to tenant income and  
11 rental rate limits such that the units serve households whose income is not more than sixty (60)  
12 percent of the median income for the Washington Metropolitan Statistical Area (WMSA). Such  
13 use shall not be subject to or a substitute for the provisions of Part 8 of Article 2.  
14  
15

16 Amend Article 2, General Regulations, as follows:

17  
18 - Amend Part 5, Qualifying Use, Structure Regulations, Sect. 2-501, Limitation on the  
19 Number of Dwelling Units on a Lot, to read as follows:  
20

21 There shall be not more than one (1) dwelling unit on any one (1) lot, nor shall a dwelling unit be  
22 located on the same lot with any other principal building. This provision shall not be deemed,  
23 however, to preclude multiple family dwelling units or residential studios as permitted by the  
24 provisions of this Ordinance; an accessory use or accessory service use as may be permitted by the  
25 provisions of Article 10; an accessory dwelling unit as may be approved by the BZA in accordance  
26 with the provisions of Part 9 of Article 8; single family attached dwellings in a rental development;  
27 or a condominium development as provided for in Sect. 409 above; or antennas and/or related  
28 unmanned equipment structures for a mobile and land based telecommunications facility mounted on  
29 a utility distribution pole, utility transmission pole or light/camera standard in accordance with the  
30 provisions of Sect. 514 below.  
31

32 In addition, in all districts, the Board or BZA, in conjunction with the approval of a special  
33 exception or special permit use, may allow dwelling units for a proprietor, owner and/or employee  
34 and his/her family whose business or employment is directly related to the special exception or  
35 special permit use. Such dwelling units may either be located within the same structure as the special



exception or special permit use or in separate detached structures on the same lot. If located in separate detached structures, such dwelling units shall meet the applicable bulk regulations for a principal structure set forth in the specific district in which located, and any locational requirements set forth as additional standards for a special exception or special permit use shall not be applicable to detached structures occupied by dwelling units.

**Amend Article 3, Residential District Regulations, as follows:**

**- Amend Part E, R-E Residential-Estate District, by adding a new Par. 3N to Sect. 3-E04, Special Exception Uses, as follows:**

3. Category 3 - Quasi-Public Uses, limited to:  
N. Residential studios

**- Amend Part 1, R-1 Residential District, One Dwelling Unit/Acre District, by adding a new Par. 3N to Sect. 3-104, Special Exception Uses, as follows:**

3. Category 3 - Quasi-Public Uses, limited to:  
N. Residential studios

**- Amend Part 2, R-2 Residential District, Two Dwelling Units/Acre, by adding a new Par. 3O to Sect. 3-204, Special Exception Uses, as follows:**

3. Category 3 - Quasi-Public Uses, limited to:  
O. Residential studios

**- Amend Part 3, R-3 Residential District, Three Dwelling Units/Acre, by adding a new Par. 2O to Sect. 3-304, Special Exception Uses, as follows:**

2. Category 3 - Quasi-Public Uses, limited to:  
O. Residential studios

**- Amend Part 4, R-4 Residential District, Four Dwelling Units/Acre, by adding a new Par. 2O to Sect. 3-404, Special Exception Uses, as follows:**

2. Category 3 - Quasi-Public Uses, limited to:  
O. Residential studios

**- Amend Part 5, R-5 Residential District, Five Dwelling Units/Acre, by adding a new Par. 2O to Sect. 3-504, Special Exception Uses, as follows:**

2. Category 3 - Quasi-Public Uses, limited to:  
O. Residential studios

- 1 - **Amend Part 8, R-8 Residential District, Eight Dwelling Units/Acre, by adding a new Par. 2O to**  
2 **Sect. 3-804, Special Exception Uses, as follows:**

3  
4 2. Category 3 - Quasi-Public Uses, limited to:

5 O. Residential studios  
6

- 7 - **Amend Part 12, R-12 Residential District, Twelve Dwelling Units/Acre, by adding a new Par. 2O**  
8 **to Sect. 3-1204, Special Exception Uses, as follows:**

9  
10 2. Category 3 - Quasi-Public Uses, limited to:

11 O. Residential studios  
12

- 13 - **Amend Part 16, R-16 Residential District, Sixteen Dwelling Units/Acre, by adding a new Par. 2O**  
14 **to Sect. 3-1604, Special Exception Uses, as follows:**

15  
16 2. Category 3 - Quasi-Public Uses, limited to:

17 O. Residential studios  
18

- 19 - **Amend Part 20, R-20 Residential District, Twenty Dwelling Units/Acre, by adding a new Par. 2O**  
20 **to Sect. 3-2004, Special Exception Uses, as follows:**

21  
22 2. Category 3 - Quasi-Public Uses, limited to:

23 O. Residential studios  
24

- 25 - **Amend Part 30, R-30 Residential District, Thirty Dwelling Units/Acre, by adding a new Par. 2O**  
26 **to Sect. 3-3004, Special Exception Uses, as follows:**

27  
28 2. Category 3 - Quasi-Public Uses, limited to:

29 O. Residential studios  
30  
31

32 **Amend Article 4, Commercial District Regulations, as follows:**

- 33  
34 - **Amend Part 1, C-1 Low-Rise Office Transitional District by adding a new Par. 2K to Sect. 4-104,**  
35 **Special Exception Uses, as follows:**

36  
37 2. Category 3 - Quasi-Public Uses, limited to:

38 K. Residential studios  
39

- 40 - **Amend Part 2, C-2 Limited Office District, by adding a new Par. 2K to Sect.4-204, Special**  
41 **Exception Uses, as follows:**

42  
43 2. Category 3 - Quasi-Public Uses, limited to:

44 K. Residential studios  
45

- 46 - **Amend Part 3, C-3 Office District and Part 9, C-9 Super-Regional Retail Commercial District, by**  
47 **adding a new Par. 2J to Sections 4-304 and 4-904, Special Exception Uses, as follows:**

48  
49 2. Category 3 - Quasi-Public Uses, limited to:

50 J. Residential studios

- 1  
2 - **Amend Part 4, C-4 High Intensity Office District, by adding a new Par. 2I to Sect. 4-404, Special**  
3 **Exception Uses, as follows:**

- 4  
5 2. Category 3 - Quasi-Public Uses, limited to:  
6 I. Residential studios  
7

- 8 - **Amend Part 5, C-5 Neighborhood Retail Commercial District, by adding a new Par. 2H to Sect.**  
9 **4-504, Special Exception Uses, as follows:**

- 10  
11 2. Category 3 - Quasi-Public Uses, limited to:  
12 H. Residential studios  
13

- 14 - **Amend Part 6, C-6 Community Retail Commercial District, by adding a new Par. 2H to Sect.**  
15 **4-604, Special Exception Uses, as follows:**

- 16  
17 2. Category 3 - Quasi-Public Uses, limited to:  
18 H. Residential studios  
19

- 20 - **Amend Part 7, C-7 Regional Retail Commercial District, by adding a new Par. 2I to Sect.4-704,**  
21 **Special Exception Uses, as follows:**

- 22  
23 2. Category 3 - Quasi-Public Uses, limited to:  
24 I. Residential studios  
25

- 26 - **Amend Part 8, C-8 Highway Commercial District by adding a new Par. 2I to Sect. 4-804, Special**  
27 **Exception Uses, as follows:**

- 28  
29 2. Category 3 - Quasi-Public Uses, limited to:  
30 I. Residential studios  
31

- 32 - **Amend Part 9, C-9 Super-Regional Retail Commercial District, by adding a new Par. 2J to Sect.**  
33 **4-904, Special Exception Uses, as follows:**

- 34  
35 2. Category 3 - Quasi-Public Uses, limited to:  
36 J. Residential studios  
37  
38

39 **Amend Article 5, Industrial District Regulations, as follows:**

- 40  
41 - **Amend Part 1, I-1 Light Industrial Research District, by adding a new Par. 3L to Sect. 5-104,**  
42 **Special Exception Uses, as follows:**

- 43  
44 3. Category 3 - Quasi-Public Uses, limited to:  
45 L. Residential studios  
46

- 47 - **Amend Part 2, I-2 Industrial Research District, by adding a new Par. 3M to Sect. 5-204, Special**  
48 **Exception Uses, as follows:**

- 49  
50 3. Category 3 - Quasi-Public Uses, limited to:

1            M. Residential studios

- 2  
3    - **Amend Part 3, I-3 Light Intensity Industrial District, by adding a new Par. 3M to Sect. 5-304,**  
4    **Special Exception Uses, as follows:**

- 5  
6            3. Category 3 - Quasi-Public Uses, limited to:

7            M. Residential studios

- 8  
9    - **Amend Part 4, I-4 Medium Intensity Industrial District, by adding a new Par. 3L to Sect. 5-404,**  
10   **Special Exception Uses, as follows:**

- 11  
12           3. Category 3 - Quasi-Public Uses, limited to:

13           L. Residential studios

- 14  
15   - **Amend Part 5, I-5 General Industrial District, by adding a new Par. 3I to Sect. 5-504, Special**  
16   **Exception Uses, as follows:**

- 17  
18           3. Category 3 - Quasi-Public Uses, limited to:

19           I. Residential studios

- 20  
21   - **Amend Part 6, I-6 Heavy Industrial District, by adding a new Par. 3I to Sect. 5-604, Special**  
22   **Exception Uses, as follows:**

- 23  
24           3. Category 3 - Quasi-Public Uses, limited to:

25           I. Residential studios

26  
27  
28 **Amend Article 6, Planned Development District Regulations, as follows:**

- 29  
30   - **Amend Part 1, PDH Planned Development Housing District, as follows:**

- 31  
32        - **Amend Sect. 6-103, Secondary Uses Permitted, by adding new Par. 17O, as follows:**

- 33  
34           17. Quasi-public uses (Category 3), limited to:

35           O. Residential studios

- 36  
37        - **Amend Sect. 6-106, Use Limitations, by adding a new Par. 12, as follows:**

- 38  
39           12. Residential studios approved in accordance with Sect. 103 and 105 above shall be subject  
40           to the provisions of Sect. 9-315.

- 41  
42        - **Amend Par. 2 of Sect. 6-110, Open Space, as follows:**

- 43  
44           2. As part of the open space to be provided in accordance with the provisions of Par. 1 above,  
45           there shall be a requirement to provide recreational facilities in all PDH Districts. The  
46           provision of such facilities shall be subject to the provisions of Sect. 16-404, and such  
47           requirements shall be based on a minimum expenditure of \$1700 per dwelling unit for such  
48           facilities and either:  
49

1 A. The facilities shall be provided on-site by the developer in substantial conformance with  
2 the approved final development plan, and/or

3  
4 B. The Board may approve the provision of the facilities on land which is not part of the  
5 subject PDH District.

6  
7 Notwithstanding the above, in affordable dwelling unit developments and/or residential  
8 studio developments, the requirement for a per dwelling unit expenditure shall not apply to  
9 affordable dwelling units and/or to such residential studios.

10  
11 - **Amend Part 2, PDC Planned Development Commercial District, as follows:**

12  
13 - **Amend Sect. 6-203, Secondary Uses Permitted, by adding New Par. 13O, as follows:**

14  
15 13. Quasi-public uses (Category 3), limited to:

16 O. Residential studios

17  
18 - **Amend Sect. 6-206, Use Limitations, by adding a new Par. 16, as follows:**

19  
20 16. Residential studios approved in accordance with Sect. 203 and 205 above shall be subject  
21 to the provisions of Sect. 9-315.

22  
23 - **Amend Sect. 6-209, Open Space, by amending Par. 2, as follows:**

24  
25 2. In a PDC development where dwelling units are proposed as a secondary use, as part of the  
26 open space to be provided in accordance with the provisions of Par. 1 above, there shall be a  
27 requirement to provide recreational facilities for the enjoyment of the residents of the  
28 dwelling units. The provision of such facilities shall be subject to the provisions of Sect. 16-  
29 404 and such requirement shall be based on a minimum expenditure of \$1700 per dwelling  
30 unit for such facilities and either:

31  
32 A. The facilities shall be provided on-site by the developer in substantial conformance with  
33 the approved final development plan. In the administration of this provision, credit shall  
34 be considered where there is a plan to provide common recreational facilities for the  
35 residents of the dwelling units and the occupants of the principal uses, and/or

36  
37 B. The Board may approve the provision of the facilities located on property which is not  
38 part of the subject PDC District.

39  
40 Notwithstanding the above, in affordable dwelling unit developments and/or residential  
41 studio developments, the requirement for a per dwelling unit expenditure shall not apply to  
42 affordable dwelling units and/or to such residential studios.

43  
44 - **Amend Part 3, PRC Planned Residential Community District, as follows:**

45  
46 - **Amend Sect. 6-302, Permitted Uses, by adding new Par. E(16)(g), as follows:**

47  
48 (16) Quasi-public uses (Category 3), limited to:

49 (g.) Residential studios

50

1       **- Amend Sect. 6-305, Use Limitations, by revising Par. 6 and add a new Par. 15 to read as**  
 2 **follows:**

3  
 4           6. In areas approved for low density residential uses, no multiple family dwellings shall be  
 5           allowed, except if such dwellings are proffered workforce dwelling units, residential  
 6           studios, or are provided pursuant to Part 8 of Article 2 and such uses are specifically  
 7           shown on the approved development plan.

8  
 9           15. Residential studios approved in accordance with Sect. 302 and 304 above shall be subject  
 10 to the provisions of Sect. 9-315.

11  
 12 **- Amend Part 4, PRM Planned Residential Mixed Use District, as follows:**

13  
 14       **- Amend Sect. 6-403, Secondary Uses Permitted, by adding new Par. 17K, as follows:**

15  
 16           17. K. Residential studios

17  
 18 **- Amend Sect. 6-406, Use Limitations, by adding a new Par. 13, as follows:**

19  
 20           13. Residential studios approved in accordance with Sect. 403 and 405 above shall be subject  
 21 to the provisions of Sect. 9-315.

22  
 23 **- Amend Par. 2 of Sect. 6-409, Open Space, as follows:**

24  
 25           2. In addition to Par. 1 above, there shall be a requirement to provide recreational facilities.  
 26           The provision of such facilities shall be subject to the provisions of Sect. 16-404,  
 27           however, recreational facilities, such as swimming pools, exercise rooms, or health clubs,  
 28           which are located on rooftops, deck areas and/or areas within a building, may be used to  
 29           fulfill this requirement. The requirement for providing recreational facilities shall be based  
 30           on a minimum expenditure of \$1700 per dwelling unit for such facilities and either:

31  
 32           A. The facilities shall be provided on-site by the developer in substantial conformance  
 33           with the approved final development plan, and/or

34  
 35           B. The Board may approve the provision of the facilities on land which is not part of the  
 36           subject PRM District.

37  
 38           Notwithstanding the above, in affordable dwelling unit developments and/or residential  
 39           studio developments, the requirement for a per dwelling unit expenditure shall not apply  
 40           to affordable dwelling units and/or to residential studios.

41  
 42 **- Amend Part 5, PTC Planned Tysons Corner Urban District, as follows:**

43  
 44       **- Amend Sect. 6-502, Permitted Uses, by adding new Paragraphs 25O, as follows:**

45  
 46           25. Category 3, Quasi-Public Uses, Limited to:

47  
 48           O. Residential Studios

49  
 50 **- Amend Sect. 6-505, Use Limitations, by adding a new Par. 20, as follows:**

20. Residential studios approved in accordance with Sect. 502 and 504 above shall be subject to the provisions of Sect. 9-315.

**- Amend Sect. 6-508, Open Space, as follows:**

2. In addition to Par. 1 above, there shall be a requirement to provide recreational facilities. The provision of such facilities shall be subject to the provisions of Sect. 16-404, however, recreational facilities, such as swimming pools, exercise rooms, or health clubs, which are located on rooftops, deck areas and/or areas within a building, may be used to fulfill this requirement. The requirement for providing recreational facilities shall be based on a minimum expenditure of \$1700 per dwelling unit for such facilities and either:

A. The facilities shall be provided on-site by the developer in substantial conformance with the approved final development plan; and/or

B. The Board may approve the provision of the facilities on land that is not part of the subject PTC District.

Notwithstanding the above, in affordable dwelling unit developments and/or residential studio developments, the requirement for a per dwelling unit expenditure shall not apply to affordable dwelling units and/or to residential studios.

**Amend Article 9, Special Exceptions, as follows:**

**- Amend Part 3, Category 3, Quasi-Public Uses, by adding new Par. 16 to Sect. 9-301, Category 3 Special Exception Uses; by identifying the districts in which such use can be located in Sect. 9-302, Districts in Which Category 3 Uses May be Located; and by creating a new Sect. 9-315, Additional Standards for Residential Studios, all to read as follows:**

**- 9-301 Category 3 Special Exception Uses**

1. Colleges, universities.
2. Conference centers and retreat houses, operated by a religious or nonprofit organization.
3. Cultural centers, museums and similar facilities.
4. Independent living facilities.
5. Congregate living facilities.
6. Medical care facilities.
7. Private clubs and public benefit associations.
8. Quasi-public parks, playgrounds, athletic fields and related facilities.
9. Sports arenas, stadiums as a principal use.
10. Child care centers and nursery schools.
11. Private schools of general education.
12. Private schools of special education.
13. Alternate uses of public facilities.
14. Dormitories, fraternity/sorority houses, rooming/boarded houses, or other residence halls providing off-campus residence for more than four (4) unrelated persons who are students, faculty members, or otherwise affiliated with an institution of higher learning.

15. Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school of general or special education.

16. Residential studios.

**- 9-302 Districts in Which Category 3 Uses May be Located**

1. Category 3 uses may be permitted by right in the following districts:

PDH, PDC, PTC Districts: Limited to uses 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, ~~and 15,~~ and 16 when represented on an approved development plan

PRC District: All uses when represented on an approved development plan

PRM District: Limited to uses 1, 3, 4, 5, 6, 7, 10, 11, 12, ~~and 15,~~ and 16 when represented on an approved development plan

C-1, C-2 Districts: Limited to quasi-public athletic fields, uses 10, 11, 12 and 15

C-3 District: Limited to uses 3, quasi-public athletic fields, 10, 11, 12 and 15

C-4 District: Limited to uses 1, 3, quasi-public athletic fields, 10, 11, 12 and 15

C-5, C-6, C-7, C-8 Districts: Limited to uses 1, 3, 7, quasi-public athletic fields, 11 and 12

C-9 District: Limited to quasi-public athletic fields, uses 11 and 12

I-I District: Limited to uses 10 and 11

I-1, I-2, I-3, I-4, I-5 Districts: Limited to quasi-public athletic fields, uses 10, 11 and 12

I-6 District: Limited to quasi-public athletic fields, uses 10 and 11

2. Category 3 uses may be allowed by special exception in the following districts:

R-A District: Limited to uses 8, nursery schools, 11 and 13

R-P District: Limited to uses 8, nursery schools, 11, 13 and 15

R-C District: Limited to uses 3, 5, private clubs, 8, nursery schools, 11, 13, 14, and 15

R-E, R-1 Districts: Limited to uses 1, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, ~~and 15~~ and 16

R-2, R-3, R-4, R-5, R-8, R-12, R-16, R-20, R-30 Districts: Limited to uses 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14 ~~and 15,~~ and 16

~~R-12, R-16, R-20, R-30, R-MHP Districts: Limited to uses 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14 and 15~~

R-MHP District: Limited to uses 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14 and 15

PRM District: Limited to use 9

C-1, C-2 Districts: Limited to uses 1, 2, 3, 4, 5, 6, 7, 8, 13, ~~and 14~~ and 16

C-3 District: Limited to uses 1, 2, 4, 5, 6, 7, 8, 13, ~~and 14~~ and 16

C-4 District: Limited to uses 2, 4, 5, 6, 7, 8, 13, ~~and 14~~ and 16

C-5, C-6 Districts: Limited to uses 2, 6, 8, 10, 13, 14, ~~and 15~~ and 16

C-7, C-8 Districts: Limited to uses 2, 6, 8, 9, 10, 13, 14, ~~and 15~~ and 16

C-9 District: Limited to uses 1, 3, 6, 7, 8, 9, 10, 13, ~~and 15~~ and 16

I-I District: Limited to uses 10, 11 and 15

I-1 District: Limited to uses 1, 2, 3, 6, 7, 8, 10, 11, 13, 14, ~~and 15~~ and 16

I-2, I-3 Districts: Limited to uses 1, 2, 3, 6, 7, 8, 9, 10, 11, 13, 14, ~~and 15~~ and 16

I-4 District: Limited to uses 1, 2, 3, 6, 7, 8, 9, 10, 11, 13, ~~and 15~~ and 16



I-5, I-6 Districts: Limited to uses 6, 7, 8, 9, 10, 11, 13, ~~and~~ 15 and 16

- **9-315 Additional Standards for Residential Studios**

1. In all districts:

- A. Each residential studio dwelling unit shall be of efficiency design (zero bedrooms) and shall comprise not more than 500 square feet of gross floor area, inclusive of an in-unit bathroom and kitchen.
- B. Residential studios shall only be established on a parcel of land fronting on, and with direct access to a collector street or major thoroughfare. Proposed locations for a residential studio development shall consider the transportation needs of the intended tenants as an essential element of the application, to include information regarding proximity to transit (rail and/or bus) or the provision of transportation services provided by the residential studio development, where appropriate.
- C. The number of residential studio units permitted on a lot shall be as established by the Board upon review of a specific development proposal, but in no event shall such development exceed seventy five (75) units. The Board may limit the maximum number of units to no more than that which could be accommodated by the maximum floor area ratio specified in the underlying zoning district. In those districts that include multiple options for FAR, residential studios shall be evaluated in comparison to the lowest specified FAR for that district. All residential studio units and their accessory uses, whether stand-alone or when co-located on a lot or in a building with any other use, shall not be subject to or included in the calculation of the maximum density (dwelling units or persons per acre) or intensity (FAR) provisions specified for the zoning district in which located.
- D. Accessory uses that are proposed as part of the residential studio development shall be identified in the special exception application in terms of the use, location, anticipated frequency of utilization, and gross floor area. The Board shall find that such use(s) are clearly subordinate in purpose, area and extent and are designed to be used solely by the tenants of the residential studios to contribute to their comfort, convenience and necessity.
- E. Residential studios shall be designed so as to be compatible with any existing development on the lot in terms of intensity, uses and scale. Additionally, the development shall be harmonious with the development on neighboring properties in terms of character, building size, height, intensity and use. Factors to be considered when evaluating the appropriateness of a proposed residential studio use on a lot and determining the maximum number of units that should be permitted shall include, but not be limited to:
  - (1) Predominant use of surrounding and nearby properties;
  - (2) Proximity to other multiple family dwelling unit developments and/or other residential studio developments;
  - (3) Predominant architectural style of the surrounding and nearby properties;
  - (4) Use and intensity/density recommendations of the adopted comprehensive plan;
  - (5) Availability of pedestrian access to transportation and shopping opportunities; and
  - (6) Vehicle trip generation rate for the residential studio development as compared to the

vehicle trip generation rate for uses on adjacent lots.

**OPTION 1 F.** In the event of a conversion of any building and/or the attachment or addition of a residential studio development to an existing structure, all Building Code requirements pertaining to multiple family dwelling unit structures shall apply. A residential studio development shall not be co-located on a lot with or attached to any single family dwelling. No residential studio development shall be permitted on a lot that is served by an on-site individual sewage disposal system or private water supply system.

**OPTION 2 F.** The conversion of a single family dwelling to a residential studio development shall not be permitted and no residential studio development shall be permitted on a lot that is served by an on-site individual sewage disposal system or private water supply system. The attachment of a residential studio development to a single family dwelling shall not be permitted. A residential studio development shall not be co-located on a lot with any single family dwelling. In the event of a conversion of any non-single family building and/or the attachment or addition of a residential studio development to an existing non-single family structure, all Building Code requirements pertaining to multiple family dwelling unit structures shall apply.

**G.** The minimum front, side and rear yard requirements, minimum open space, and maximum building height limits shall be as set forth in the respective zoning district, except as may be modified by the Board to ensure neighborhood compatibility. In the R-E through R-8 Districts, the yards and building height shall be as specified for single family dwellings and in the R-12 through R-30 Districts, the yards and buildings heights shall be as specified for multiple family dwellings, unless modified by the Board.

**H.** For the purposes of Article 10, an individual residential studio unit shall be deemed a multiple family dwelling unit; however; no additional employee associated with a home occupation shall be allowed and the tenant shall not operate a home child care facility or a school of special education in the residential studio.

**I.** Notwithstanding the provisions of Article 11, the minimum off-street parking requirement shall be based on one (1) space per residential studio unit, plus such spaces as are necessary for any accessory uses, as determined by the Board. No additional fees may be charged to a tenant for the parking of one (1) vehicle per residential studio unit. In the event that an applicant can demonstrate that fewer parking spaces than those required above will adequately serve the residential studio development, the Board, in its review may modify this parking requirement, based on the specific characteristics of the use and its location in proximity to transit opportunities or alternate parking facilities.

**J.** In accordance with Article 12, signs for a residential studio development shall be as provided for multiple family residential developments.

**K.** For the purposes of Article 13, the landscaping and screening requirements for residential studios located on a lot zoned for or developed with a non-residential principal use shall be based upon the predominant non-residential use. For residential studios located on a lot zoned for or developed with a residential principal use, such use shall be deemed a multiple family dwelling unit development for the purposes of Article 13.

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- L. All initial lease terms shall be for a period of not less than six (6) months and not more than one (1) year. Renewal terms may be on a month-to-month or other term basis, but shall not be longer than one (1) year for each renewal period.
  - M. There shall be convenient laundry facilities provided either within the individual units or in a separate room within the building housing the residential studios and shall be provided at a rate of not less than one (1) washer and one (1) dryer for each ten (10) residential studios, or part thereof.
  - N. All residential studio developments shall provide for a resident manager or twenty-four (24) hour on-site manager on the property or, alternatively, the Board may approve a property management plan that demonstrates sufficient off-site management of the development. The owner or manager shall monitor the income level of tenants at the time of initiation and renewal of any lease term. The results of such monitoring shall be provided to the Zoning Administrator, or designee, on an annual basis to assure on-going compliance with the tenancy and income limits, as defined. Such report shall include the unit number, date of lease renewal, term of lease renewal and tenant income. Each residential studio development may have not more than one (1) unit designated for use by a resident manager and such tenant shall not be subject to the income limits specified for this use. Subject only to modification or exception necessary for compliance with a federal or state affordable housing program, should a tenant become over-qualified with regard to income, such tenant shall vacate the residential studio at the end of the lease term in effect at the time of such over-qualification or within nine (9) months of such over-qualification, whichever time period is longer.
  - O. Prior to the issuance of the first Residential Use Permit for any residential studio unit within the development, the owner shall record a notice in the land records of Fairfax County, on a form provided by or approved by the Fairfax County Department of Housing and Community Development, to address, at a minimum, the income limitations, rental price restrictions, the perpetuity of such controls and any other relevant limits that are imposed by the Board. Additionally, prior to the issuance of the first Residential Use Permit, the owner/manager of the residential studio development shall submit to the Department of Housing and Community Development a rent schedule that identifies the current Area Median Income (AMI) for the Washington Metropolitan Statistical Area (WMSA) as specified by Housing and Urban Development (HUD) and the unit breakdown of rent tiers in accordance with the limits set forth in the definition of residential studio. For each subsequent year, upon release of an updated AMI for the WMSA by HUD, the owner/manager shall submit an amended rent schedule to reflect the changes.
  - 2. In the P districts, in addition to Par. 1 above, if residential studio developments and their accessory uses are proposed as a secondary use as part of a development plan, the floor area shall be excluded when determining the maximum percentage of secondary uses permitted in the development.

**Amend Article 18, Administration, Amendments, Violations and Penalties, by amending Paragraphs 1 and 2 of Sect. 18-106, Application and Zoning Compliance Letter Fees, to add Residential Studios to the fee structure, as follows:**

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

1. Application for a variance, appeal, special permit or special exception:

Application for a:

Category 3 special exception

<u>Residential studios</u> ( <i>The advertised range is</i>	<u>\$1100</u>
<i>\$1,100 to \$16,375. Staff is recommending \$1,100)</i>	

2. Application for an amendment to the Zoning Map:

<u>Amendment to a previously approved</u>	<u>\$1100</u>
<u>proffered condition, development plan,</u>	
<u>final development plan, conceptual development</u>	
<u>plan, PRC plan or concurrent conceptual/final</u>	
<u>development plan for residential studios</u>	
<i>(The advertised range is \$1,100 to \$16,375. Staff is recommending \$1,100)</i>	

ATTACHMENT 1

SUMMARY OF PUBLIC COMMENTS REGARDING RESIDENTIAL STUDIOS

On May 13, 2013, staff distributed a solicitation for input from the public on the draft Zoning Ordinance Amendment. Considerable response was received from both individuals and organizations, to include Virginia Supportive Housing, Community Residences, Inc., Fairfax County Human Services Council, McLean Citizen's Association, Habitat for Humanity, Health and Human Services Committee of the Mount Vernon Council of Citizens' Associations, Fairfax – Falls Church Community Services Board, Fairfax County Alliance for Human Services, and others. In total, there were more than fifty responses from individuals and groups. The input was generally supportive of the amendment, however a number of issues were raised, some opposition to specific provisions was noted, and additional information was requested from some of the respondents. The following sets forth a summary of the comments received in support of the proposal:

- Seven responses of support from parents with an adult child with intellectual disabilities who support the amendment to provide much needed housing so that their adult children can live independently.
- One response from an adult graduate of Mason LIFE Program who supports the amendment because he wants to continue to live in Fairfax.
- Twenty-nine responses of support from citizens and organizations citing the need for appropriate housing for this income population.
- Three responses from formerly homeless individuals supporting housing that provides alternatives to short-term sheltering.
- One response of support from an advocate for children aging out of foster care and at-risk youth supporting housing options that can be developed in conjunction with a non-profit.
- One response from a church pastor and congregation supporting the amendment.
- One statement of support, but specifically requests inclusion of the ability to convert a single family dwelling.
- One statement of support, but specifically requests exclusion of the ability to convert a single family dwelling.

There were a number of responses from the public that identified concerns, made recommendations, and/or asked for more information regarding the provisions. These are set forth below, with a description of any action staff has taken to address the issue noted in italics:

- Opposed to providing such housing for anyone who is not a US citizen. – *Fair Housing regulations address this comment.*

- Parking rate is excessive for a tenant who is coming out of homelessness and has a very low income, with no vehicle. – *The proposed parking rate of 1 space per unit can be reduced by the Board upon request and demonstration that a reduction is appropriate.*
- Parking problems will be created by having only one space per unit. – *The amendment is written to give the Board the authority to utilize a one space per unit base, and then adjust the rate higher or lower based on the anticipated needs of the tenants. For developments that are not in reasonable proximity to transit and which are not designed to be occupied by tenants who do not drive, the Board may impose a condition that requires more parking than the base amount of one space per unit.*
- Concern that the original intent of the SRO Study to serve the very low income (normally < 30% AMI) will be squeezed out of residential studios by those making higher incomes and also concern that the proposal does not address the needs of the most vulnerable because their incomes are well below the 60% AMI level. – *The income limits specified in the amendment are maximum incomes. Should an applicant wish to further establish income tiers or lower the maximum income limits, that opportunity exists. Additionally, in the Board's approval of the special exception, development conditions can be imposed with regard to the establishment of alternative levels of tenant income.*
- Concerns about ability to finance developments if the income limits and rent control prices don't expire in the event that the development is subject to a foreclosure. – *This issue has been raised with regard to for-sale affordable dwelling units, although staff believes that the funding sources for rental apartments offer more flexibility. The residential studio use is, by definition, an income and rent controlled product, which income limits are not subject to expiration over time or in the event of a foreclosure.*
- Questions whether the locational criteria for a collector street/major thoroughfare access will make the development lot too expensive. – *Given the potential number of units, staff believes this provision is necessary to ensure that residential studios can be adequately served by roadways of sufficient capacity and to preclude location on neighborhood streets. Staff notes that applicants can request a modification of this provision if adequate justification presented to the Board warrants such modification.*
- Recommendation for a 5% increase in unit size. – *The 500 square foot maximum is an additional standard and is, therefore, subject to modification if adequate justification is presented to the Board to grant approval for larger units. In any event, units must still be efficiencies (zero bedrooms), regardless of approval of any increase in size.*
- Recommendation for washers/dryers at 1:5 ratio and a recommendation for a ratio of 1:20. – *Staff received conflicting comments regarding adequate laundry facilities, with some wanting more washers/dryers and others suggesting that fewer are adequate. Staff believes the 1:10 ratio proposed is an appropriate base requirement, acknowledging that the Board could require a higher ratio or permit a lower ratio and the developer could voluntarily provide additional washers/dryers.*

- Concern that enforcement will be ineffective if this use is used to address an existing overcrowding situation. – *Residential studios are not a remedy to overcrowding in a single family dwelling, as they are specifically defined as a multiple family dwelling unit product that is rent and tenant controlled and requires approval by the Board as a special exception use.*
- There should be a minimum unit size specified. – *Minimum unit sizes are set forth in the Building Code and staff believes that these minimums are adequate for residential studios.*
- There should be a maximum distance from transit. – *Staff considered a recommendation for distance to transit, but since most transit is in the form of bus service, which is subject to changes in routes and stop locations, staff did not include this standard.*
- Four comments that conversions of single family dwellings should be precluded and density should count in each district. – *Staff provided options for the Board to consider an option to allow the conversion of a single family dwelling to a residential studio and an option to preclude it. The density concerns are discussed in greater detail in the Staff Report.*
- Opposition based on the belief that there is not enough information regarding where units would be built, what the density will be, when units would be built, who is paying for the development, what are the land use impacts, how the environment will be protected, impacts on well water and watershed, and a commitment to slow growth in rural areas. – *These factors would be evaluated by the Board during the review of a special exception application for a specific residential studio development.*